

**Department of State
Division of Publications**

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Nashville, TN 37243
Phone: 615-741-2650
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For Department of State Use Only

Sequence Number: 06-23-23
Rule ID(s): 9890
File Date: 6/14/2023
Last Effective Day: 12/11/2023

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	The Department of Commerce and Insurance
Division:	Fire Prevention
Contact Person:	Beth Schulenberg
Address:	500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-532-7899
Email:	Elizabeth.leflerschulenberg@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Statement of Necessity:

The Department seeks to adopt emergency rules to address building and fire safety requirements for residential occupancies housing children under the care of the Department of Children's Services (DCS). Very few residential structures meet the code for residents who require custodial care, and thus, housing residents in those structures presents an immediate danger to the public health, safety, and welfare of its occupants. Failure to immediately enact this rule jeopardizes a housing solution for children in the state's care and subjects the children to displacement and homelessness. The Department shall incorporate this rule into Tenn. Comp. R. & Regs. 0780-02-02 at a later date.

The NFPA 101 Life Safety Code, 2021 Edition, shall govern for existing residential or health care occupancies converting to small residential board and care facilities housing eight (8) or fewer residents. Residents must be able to escape as a group within three (3) minutes to a point of safety.

Currently, the T.C.A. does not allow the State Fire Marshal's Office to require fire sprinklers in one- and two-family dwellings. However, this rule does not apply to residential uses of other buildings, which are subject to the International Building Code (IBC) requirements. The adoption of the NFPA 101 Life Safety Code, 2021 Edition, creates a new building classification to assist with a temporary housing solution while residents await permanent placement. This amendment will allow existing and future occupancies to safely provide shelter and allow for assistance with daily living activities but will not require the structure to have a fire sprinkler suppression system installed as long as the criteria stated in the rule is established.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0780-02-02	Codes and Standards
Rule Number	Rule Title
0780-02-02-.01	Adoption by Reference

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION

CHAPTER 0780-02-02
CODES AND STANDARDS
Amendment

Rule 0780-02-02-.01 Adoption by Reference is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for fire prevention, fire protection, and building construction safety in the State of Tennessee shall be those prescribed in the following publications:
 - (a) International Building Code (IBC), 2012 edition, published by the International Code Council (ICC), except for:
 1. Chapter 11 Accessibility; and,
 2. Chapter 34, Section 3411 Accessibility For Existing Buildings;
 - (b) The International Fuel Gas Code (IFGC), 2012 edition, published by the International Code Council (ICC);
 - (c) The International Mechanical Code (IMC), 2012 edition, published by the International Code Council (ICC);
 - (d) The International Plumbing Code (IPC), 2012 edition, published by the International Code Council (ICC);
 - (e) The International Property Maintenance Code (IPMC), 2012 edition, published by the International Code Council (ICC);
 - (f) The International Fire Code (IFC), 2012 edition, published by the International Code Council (ICC);
 - (g) The International Energy Conservation Code (IECC), 2012 edition, published by the International Code Council (ICC), except that the provisions of the International Energy Conservation Code, 2006 edition, shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2012 edition:
 1. Moderate-hazard factory industrial, Group F-1;
 2. Low-hazard factory industrial, Group F-2;
 3. Moderate-hazard storage, Group S-1; and,
 4. Low-hazard storage, Group S-2;

(Rule 0780-02-02-.01, continued)

- (h) The International Existing Building Code (IEBC), 2012 edition, published by the International Code Council (ICC);
- (i) For state buildings, educational occupancies and any other occupancy requiring an inspection by the state fire marshal for initial licensure, NFPA 101 Life Safety Code, 2012 edition, published by the National Fire Protection Association (NFPA); except that:
 - 1. For classrooms in existing and new educational occupancies, as defined by Tenn. Comp. R. & Regs. 0780-02-03-.01(d), 15.2.2.2.4 excluding (1): Classroom Door Locking to Prevent Unwanted Entry, NFPA 101 Life Safety Code, 2018 edition, published by the NFPA; or
 - 2. For classrooms in existing and new colleges and university instructional buildings, 39.2.2.2.2 excluding (1): Classroom Door Locking to Prevent Unwanted Entry, NFPA 101 Life Safety Code, 2018 edition, published by the NFPA.
- (j) NFPA 101 Life Safety Code, 2021 edition, published by the National Fire Protection Association (NFPA) shall govern new Small Residential Board and Care facilities that:
 - 1. Are a change of occupancy from either a residential occupancy or a health care occupancy; and
 - 2. House eight (8) or fewer residents, and all residents have and maintain the ability to move reliably and escape to a point of safety as a group within three (3) minutes.
- (k) No provision of the preceding cited publications shall be adopted that conflicts with:
 - 1. The installation and service standards of portable fire extinguishers and fixed fire extinguisher systems in Tenn. Comp. R. & Regs. 0780-02-14-.02; and,
 - 2. The standards for engaging in the liquefied petroleum gas business in Tenn. Comp. R. & Regs. 0780-02-17-.02.
- (2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:
 - (a) An optional or recommended, rather than mandatory, standard or practice; or,
 - (b) Any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with the statute or rules.

Authority: T.C.A. §§ 68-102-113, 68-120-101.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: March 6, 2023

Signature: Beth Schulenberg

Name of Officer: Beth Schulenberg

Title of Officer: Associate General Counsel

Agency/Board/Commission: Department of Commerce and Insurance

Rule Chapter Number(s): Chapter 0780-02-02: Codes and Standards

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrmetti by delegation
Jonathan Skrmetti
Attorney General and Reporter
6-8-23
Date

Department of State Use Only

Filed with the Department of State on: 6/14/2023

Effective for: 180 *days

Effective through: 12/11/2023

RECEIVED

Jun 14 2023, 3:22 pm

Secretary of State
Division of Publications

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

Tre Hargett
Tre Hargett
Secretary of State

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule will not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The NFPA 101 Life Safety Code, 2021 Edition, shall govern for existing residential or health care occupancies converting to small residential board and care facilities housing eight (8) or fewer residents. Residents must be able to escape as a group within three (3) minutes to a point of safety.

Currently, state law does not allow the State Fire Marshal's Office to require fire sprinklers in one- and two-family dwellings so the majority of one- and two- family dwellings in Tennessee are built without the systems. However, the prohibition does not apply to commercial residential occupancies, which are subject to the International Building Code (IBC) requirement. The adoption of the NFPA 101 Life Safety Code, 2021 Edition, in this specific instance, will give the SFMO and owners and operators of small residential board and care facilities more flexibility to allow alternative methods of fire safety to ensure the safety of the residents without requiring the installation of a fire sprinkler system in an existing structure.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-120-101 requires the State Fire Marshal to establish minimum statewide building construction standards.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Department of Children's Services, Department of Mental Health and Substance Abuse, the Department of Intellectual and Developmental Disabilities, and boarding care facilities. The Department received no comments on the proposed rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No anticipated increase or decrease in state or local government revenue or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director of Programs and Policy for Fire Prevention
Christopher Bainbridge, Director of Codes Enforcement

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

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Ben Conrady, Chief Counsel for Fire Prevention

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway
Nashville, TN 37243

Gary Farley; gary.farley@tn.gov; 615-516-9558
Mary Beth Gribble; marybeth.gribble@tn.gov; 615-574-9437
Ben Conrady; ben.conrady@tn.gov; 615-253-7271

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Division:	Fire Prevention
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Address:	500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-532-7899
Email:	Elizabeth.lefferschulenberg@tn.gov

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Rule Number	Rule Title
0780-02-02-.01	Adoption by Reference

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RULES
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DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION

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 - 1. Moderate-hazard factory industrial, Group F-1;
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(Rule 0780-02-02-.01, continued)

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| Authority: T.C.A. §§ 68-102-113, 68-120-101, ~~68-120-101(a) and (e), 68-102-113, and 68-102-113(a) and (e).~~

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: March 6, 2023

Signature: *Beth Schulenberg*

Name of Officer: Beth Schulenberg

Title of Officer: Associate General Counsel

Agency/Board/Commission: Department of Commerce and Insurance

Rule Chapter Number(s): Chapter 0780-02-02: Codes and Standards

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrmetti
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective for: _____ **days*

Effective through: _____

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

Tre Hargett
Secretary of State

Impact on Local Governments

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- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

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Mary Beth Gribble, Director of Programs and Policy for Fire Prevention
Christopher Bainbridge, Director of Codes Enforcement

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N/A